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Contract No. S-AQMPD-07-C0054
Local Guard Services Kabul, Afghanistan

EXHIBIT L Policy Regarding The Use of Deadly Force

1. Definition of "Deadly Force"

"Deadly force" is the use of any force that is likely to cause death or serious physical injury. When an armed guard uses such force, it may only be done consistent with this policy. Force that is not likely to cause death or serious physical injury, but unexpectedly results in such harm or death, is not governed by this policy.

2. Probable Cause for the Use of Deadly Force

Probable cause, reason to believe or a reasonable belief, for purposes of this policy, means facts and circumstances, including the reasonable inferences drawn there from, known to the armed guard at the time of the use of deadly force, that would cause a reasonable armed guard to conclude that the point at issue is probably true. The reasonableness of a belief or decision must be viewed from the perspective of the armed guard on the scene, who may often be forced to make split-second decisions in circumstances that are tense, unpredictable, and rapidly evolving. Reasonableness is not to be viewed from the calm vantage point of hindsight.

3. Principles on Use of Deadly Force

The Contractor adopts the Department of State policy which recognizes and respects the integrity and paramount value of all human life. Consistent with that primary value, but beyond the scope of the principles articulated here, is the full commitment by the Contractor to take all reasonable steps to prevent the need to use deadly force, as reflected in Diplomatic Security (DS) approved training and procedures. Yet even the best prevention policies are on occasion insufficient, as when an armed guard is confronted with a threat to his or her life and/or the life of protectees or other individuals. With respect to these situations and in keeping with the value of protecting all human life, the touchstone of this policy regarding use of deadly force is necessity. Use of deadly force must be objectively reasonable under all the circumstances known to the armed guard at the time.

4. Permissible Uses of Deadly Force

a) The necessity to use deadly force arises when all other available means of preventing imminent and grave danger to armed guard or other persons have failed or would be likely to fail. Thus, employing deadly force is permissible when there is no safe alternative to using such force, and without it the armed guard or others would face imminent and grave danger. An armed guard is not required to place himself or herself, another armed guard, or the public in unreasonable danger of death or serious physical injury before using deadly force. An armed guard will fire at a person only in response to an imminent threat of deadly force or serious physical injury against the armed guard, protectees, or other individuals.

b) Determining whether deadly force is necessary may involve instantaneous decisions that encompass many factors, such as:

- a) The likelihood that the subject will use deadly force on the armed guard or others if such force is not used by the armed guard;
- b) The armed guard's knowledge that the subject will likely acquiesce if the armed guard uses lesser force or no force at all;
- c) The capabilities of the subject;
- d) The presence of other persons who may be at risk if force is or is not used; and
- e) The nature and the severity of the danger posed.

c) Deadly force should never be used upon mere suspicion that the actions of an individual or group of individuals will result in serious injury or death of an armed guard, protectees(s), or others.

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5. Use of Lesser Means Than Deadly Force

a) Intermediate Force

If force less than deadly force could reasonably be expected to accomplish the same end, such as restraining a dangerous subject, without unreasonably increasing the danger to the armed guard or to others, then it must be used. Deadly force is not permissible in such circumstances, although the reasonableness of the armed guard's understanding at the time deadly force was used will be the benchmark for assessing applications of this policy.

b) Verbal Warnings

Prior to using deadly force, if feasible, armed guard will audibly command the subject to submit to their authority. If, however, giving such a command would itself pose a risk of death or serious physical injury to the armed guard or others, it need not be given.

1. Warning Shots and Shooting to Disable

a) Warning shots are not authorized. Discharge of a firearm is usually considered to be permissible only under the same circumstances when deadly force may be used—that is, only when necessary to prevent loss of life or serious physical injury. Warning shots themselves may pose dangers to the armed guard or others.

b) Attempts to shoot to wound or to injure are unrealistic and, because of high miss rates and poor stopping effectiveness, can prove dangerous for the armed guard and others. Therefore, shooting merely to disable is strongly discouraged.

7. Motor Vehicles and Their Occupants

Shooting to disable a moving motor vehicle is forbidden. An armed guard who has reason to believe that a driver or occupant poses an imminent danger of death or serious physical injury to the armed guard or others may fire at the driver or an occupant only when such shots are necessary to avoid death or serious physical injury to the armed guard or another, and only if the public safety benefits of using such force reasonably appear to outweigh any risks to the armed guard or the public, such as from a crash, ricocheting bullets, or return fire from the subject or another person in the vehicle.

8. Vicious Animals

Deadly force may be directed against vicious animals when necessary in self-defense or the defense of others.

9. Investigation of Incidents of Deadly Force

a) Investigative Jurisdiction

The Regional Security Officer and local law enforcement authority having jurisdiction will conduct the investigation of the incident of deadly force. Armed guards will cooperate fully with the investigating authority.

b) Diplomatic Security Service Investigation

The Chairman, DS Firearms Policy Review Board, shall establish procedures for internal review and investigations.

c) Administrative Leave/Duty

An armed guard who make use of deadly force will be placed, as circumstances dictate, on administrative leave or assigned to duties not requiring the carrying of a firearm until the internal review and investigation are completed and the armed guard is authorized to return to duty.

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10. Firearms

No armed guard shall carry a firearm unless:

The armed guard has qualified with assigned weapon(s) in accordance with contract terms and conditions;

The armed guard is not disqualified by any law of the United States including 18 USC 922(g) relating to convictions for misdemeanor crimes of violence; and

The armed guard has been authorized by the Regional Security Officer and any applicable host country authority to carry and use firearms in the performance of their duties with respect to maintaining the security and safety of persons designated in the contract.

11. Responsibility

An armed guard is responsible for having a complete understanding of his or her authority and its limitations, and applicable guidelines and procedures.

12. Issues Requiring Clarification

All issues relating to this policy which require clarification shall be directed to the Chief of the High Threat Protection Division, Bureau of Diplomatic Security, Overseas Protective Operations.

13. Authorized Firearms and Related Equipment

An armed guard may carry only handguns, holsters, support weapons, and ammunition that the Department of State has issued or approved. Under no circumstances is an armed guard to modify any support weapon or ammunition that the Department of State has issued.

14. Qualification

To be authorized to carry a Department-issued or approved firearm, an armed guard shall qualify by meeting or exceeding a specified score with a Department-issued or approved firearm in accordance with the contract. Under no circumstance shall an armed guard carry a firearm if he or she has not successfully completed the required firearms qualification procedures.

15. Firing Range Procedures

The firing range instructor shall ensure that all training is conducted safely in accordance with DS approved guidelines, lesson plans, and manuals.

16. Prescription Medication

An armed guard who is taking prescription medication, except for short-term antibiotics, anti-malarial prophylaxis, or oral contraceptives, which are not already a matter of record with the Contractor, shall notify his or her supervisor and submit a medical certificate or other administratively acceptable documentation of the prescription and its effect(s) to the Regional Security Officer and DS/OPO/HTP. The Regional Security Officer with the assistance of DS/OPO/HTP shall determine whether such armed guard shall be allowed to continue to carry a firearm while taking the medication. Pending written approval the armed guard shall not perform armed guard duties.

17. Standards of Conduct for Armed Guards

- a) Armed guards shall remember at all times the serious responsibility and potential dangers attendant to their authority to carry firearms and conduct themselves accordingly;
- b) Armed guards are accountable for their actions and shall conduct themselves in a manner, which shall not bring discredit to the Department of State or to themselves;
- c) An armed guard shall treat a firearm at all times as if it were loaded; and
- d) All incidents involving misconduct with a firearm shall be reported immediately to the Regional Security Officer and DS/OPO/HTP. Any such incidents shall be considered serious, and the armed guard involved may be subject to criminal, civil penalties and disciplinary action.

18. Activities Specifically Prohibited

The following activities are specifically prohibited for armed guards while armed:

- a) Careless or irresponsible behavior;

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- b) Careless or unnecessary display of a firearm in public;
- c) Dry-firing or practicing quick draws other than during training or qualification practice;
- d) Threatening a person, or making an unwarranted allusion to being armed, in any situation not directly related to an official purpose;
- e) Consumption of any alcoholic beverage while armed, or six hours prior to being armed, or at any time prior to being armed sufficient to impair the armed guard's judgment or ability to perform his or her duties;
- f) Use of medications or drugs that may impair judgment or ability while on duty;
- g) Carrying or using any firearm, ammunition, or related equipment not specifically issued or approved by the Department of State; and
- h) Carrying or using a modified firearm not previously approved by the DS armorer.

19. Availability of Firearms

Armed guards may carry their firearms in the United States and abroad as long as they comply with applicable procedures, guidelines, contract and/or task order requirements, and consistent with applicable authority.

20. Securing Firearms

- a) An armed guard is responsible for maintaining the safety and security of his or her firearm. An armed guard shall secure his or her firearm in accordance with established Post policy and company policy.
- b) If an armed guard loses his or her firearm, or if the firearm is stolen, the armed guard shall immediately notify the Regional Security Officer.
- c) The armed guard shall immediately report any loss or theft to his or her supervisor who shall promptly notify DS/OPO/HTP. On the next business day, the armed guard shall prepare a memorandum, through his or her immediate supervisor, to the Regional Security Officer, thoroughly explaining the circumstances of the loss.

21. Drawing Firearms

An armed guard will not draw his or her firearm unless confronted with the threat of deadly force or serious physical injury.

22. Discharges

- a) Reporting – An armed guard who has discharged a firearm shall orally report such discharge immediately to his or her direct supervisor and shall prepare a written report delineating the circumstances of the discharge within 24 hours.
- b) Investigation - Internal investigations of all discharges of firearms shall be under the direction of the Regional Security Officer and DS/OPO/HTP. Pending the results of the investigation, the armed guard who has discharged his or her firearm may be placed on administrative leave or may be assigned duties that do not require the carrying of a firearm.
- c) Media Inquiries – Armed guards shall make no comment to the media regarding a discharge. Armed guards shall refer inquiries from the press regarding a discharge to the Regional Security Officer.
- d) Discharge Involving Injury or Death - After meeting the exigencies of a shooting situation and securing the area as required, the first concern of armed guards shall be the physical and mental well being of all armed guards.
- e) Notification of Appropriate Law Enforcement Authorities - The responsible Supervisor of the armed guards shall notify the Regional Security Officer immediately of the discharge.
- f) Investigation – Armed guards on the scene at the time of the discharge shall not investigate the discharge. The firearm that was discharged shall be secured, preserved as evidence, and relinquished to the Regional Security Officer.

23. Disciplinary and Other Actions

- a) The Regional Security Officer, Contracting Officer, and/or Contracting Officer's Representative shall be kept fully informed of any discharge of a firearm by an armed guard, or of any incident, which results in an allegation of misconduct with a firearm by an armed guard.

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b) The Regional Security Officer, Contracting Officer, and/or Contracting Officer's Representative may ask the Contractor to reassign an armed guard to duties that do not require the carrying of a firearm, require the armed guard to undergo remedial training, or ask the Contractor to reassign the armed guard to another contract other than this contract with the Department of State.

c) The Regional Security Officer or the Chief of the High Threat Protection Division may refer matters to relevant law enforcement authorities, when appropriate.

24 Applicability of Policy and Regulation

Nothing contained in this policy shall be construed to limit or impair the authority or responsibility of any other Federal law enforcement agency of the United States or host country with respect to investigative, protective, or intelligence activities.

This policy will be used in conjunction with an Embassy's firearm policy written by the Regional Security Officer and approved by the Chief of Mission. If any provision of this policy conflicts with the Embassy's firearm policy, the Embassy's firearm policy is controlling.

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